

## EXHIBIT

### INTRODUCTION

Respondent Dick Frank was a successful candidate for San Luis Obispo County Assessor during the June 2, 1998 election. Respondent Re-Elect Dick Frank County Assessor (the “Committee”) was Respondent Dick Frank’s controlled campaign committee. Respondent Donna Frank, wife of Respondent Dick Frank, was the treasurer for Respondent Committee.

For the purposes of this Stipulation, Respondents’ violations of the Political Reform Act (the “Act”) <sup>1</sup> are stated as follows:

- Count 1: Respondents failed to file a second pre-election campaign statement for the reporting period March 18, 1998 through May 16, 1998, by the May 21, 1998 due date, in violation of Section 84200.7, subdivision (a) of the Government Code.
- Count 2: Respondents failed to file a late contribution report within 24 hours of receiving a contribution of \$5,000 on May 22, 1998 during the late reporting period, in violation of Section 84203, subdivision (a) of the Government Code.
- Count 3: Respondents failed to file a late contribution report within 24 hours of receiving a contribution of \$1,000 on May 26, 1998 during the late reporting period, in violation of Section 84203, subdivision (a) of the Government Code.
- Counts 4: Respondents failed to file a late contribution report within 24 hours of receiving a contribution of \$4,000 on May 28, 1998 during the late reporting period, in violation of Section 84203, subdivision (a) of the Government Code.
- Respondents: Dick Frank, Re-Elect Dick Frank County Assessor and Donna Frank

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<sup>1</sup> The Political Reform Act is contained in sections 81000 through 91015 of the California Government Code. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Code of Regulations unless otherwise indicated.

## **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed, so that voters may be fully informed, and improper practices may be inhibited.

In furtherance of this purpose of disclosure, Section 84200.5 requires committees to file two pre-election campaign statements, disclosing contributions received and expenditures made before an election. Section 84200.7, subdivision (a), sets forth the pre-election filing schedule for June elections held in even-numbered years. According to this schedule, the first pre-election campaign statement, for the reporting period ending on March 17, must be filed by March 22. The second pre-election campaign statement, for the reporting period ending 17 days before the election must be filed no later than 12 days before the election.

Section 84203, subdivision (a), requires every committee to file a late contribution report within twenty-four hours of making or receiving a late contribution. Section 82036 defines a "late contribution" as any contribution totaling \$1,000 or more made to a candidate, a controlled committee, or a primarily formed committee, during the period before an election, but after the closing date of the last campaign statement required to be filed before the election. The late contribution reporting period for the June 2, 1998 election was May 17, 1998 through June 1, 1998.

Section 82013, subdivision (a) defines a "committee" as any person or combination of persons who directly or indirectly receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year.

As provided in Section 84100, every committee shall have a treasurer. Under Section 84100 and Regulation 18427, subdivision (a), it is the duty of a committee's treasurer to ensure that the committee complies with all of the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. Under Sections 83116.5 and 91006, a committee's treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee.

## **SUMMARY OF THE FACTS**

Respondent Dick Frank was a successful candidate for re-election as the San Luis Obispo County Assessor during the June 2, 1998 election. Respondent had previously been elected Assessor in 1994.

Respondent Committee was Respondent Dick Frank's controlled campaign committee. Respondent Donna Frank was the treasurer for Respondent Committee.

**Count 1**  
**Failure to Timely File a Pre-Election Campaign Statement**

Under Section 84200.7, subdivision (a), Respondents were required to file a second pre-election campaign statement by May 21, 1998, disclosing campaign activity by Respondent Committee during the reporting period March 18, 1998 through May 16, 1998.

Respondents received contributions in the amount of \$6,154.00 and made expenditures in the amount of \$14,515.90 during the reporting period March 18, 1998 through May 16, 1998, but failed to file a second pre-election campaign statement by the May 21, 1998 due date, in violation of Section 84200.7, subdivision (a).

On June 1, 1998, 16 days after the second pre-election campaign statement was due, but prior to the June 2, 1998 election date, Respondents filed the second pre-election campaign statement for the reporting period March 18, 1998 through May 16, 1998, reporting Respondent Committee's campaign activity during the reporting period.

**Counts 2 – 4**  
**Failure to File Late Contribution Reports**  
**Reporting Contributions Received**

The late reporting period for the June 2, 1998 election was May 17, 1998 through June 1, 1998.

Under Section 84203, subdivision (a), Respondents were required to file a late contribution report within 24 hours of receiving a contribution of \$1,000 or more during the late reporting period May 17, 1998 through June 1, 1998. Respondent Committee received three contributions of \$1,000 or more during the late reporting period. Respondent Committee was therefore required to file late contribution reports reporting the receipt of those contributions as follows:

Count	Date received	Contributor	Type	Amount
2	May 22, 1998	Candidate	Loan	\$5,000
3	May 26, 1998	Donna Frank	Loan	\$1,000
4	May 28, 1998	Gladys Frank	Loan	\$4,000
Total undisclosed late contributions				\$10,000

Respondents' failure to file three late contribution reports during the late reporting period constitutes three violations of Section 84203, subdivision (a).

## CONCLUSION

This matter consists of four counts that carry a maximum possible administrative penalty of Eight Thousand Dollars (\$8,000). However, since 1996, the typical penalty imposed for the non-filing of a pre-election campaign statement has historically been between One Thousand Five Hundred Dollars (\$1,500) and Two Thousand Dollars (\$2,000) per count. Furthermore, since the institution of the LCR streamlined enforcement program approved by the Commission in June 2000, the typical penalty imposed for failing to file reports disclosing late contributions has historically been a penalty equal to 15% of the unreported contributions up to a maximum of \$2,000 for each unreported contribution.

In this matter, as to count 1, Respondents filed their second pre-election statement 16 days late, but filed the statement prior to the election. While Respondents' campaign information did not become available to the public until the last minute, it was available prior to the election and the resulting harm to the public was therefore mitigated. Therefore an administrative penalty in the amount of \$1,500 for this violation is appropriate.

As for counts 2 through 4, Respondents were negligent in failing to file late contribution reports disclosing the three last minute contributions totaling \$10,000. Since there was no evidence of intent to conceal this information from the public, an administrative penalty of 15 % of the unreported contributions, or \$1,500, is an appropriate administrative penalty for these violations.

An agreed upon penalty of Three Thousand Dollars (\$3,000) is therefore justified.